

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 202004124	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 8:00 PM	Location of Incident: East 139th Street and Brook Avenue	Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/09/2020 12:06 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 06/09/2020 12:06 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. SGT Kenneth Rice	04867	952164	LEG BUR

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Roberto Gonzalez	09267	957635	046 PCT
2. LT Andrew Johnson	00000	941966	040 PCT
3. POM John Oneill	10463	959001	SRG 1
4. DT2 Enrique Corniel	01787	928115	LEG BUR

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke discourteously to individuals.	
E. An officer	Force: An officer used physical force against § 87(2)(b)	
F. An officer	Force: An officer used physical force against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 9, 2020, § 87(2)(b) filed this complaint with the CCRB online.

On June 4, 2020, § 87(2)(b) was participating in the 2020 Police Brutality Protest with her friend, § 87(2)(b) in the vicinity of East 139th Street and Brook Avenue in the Bronx, when NYPD officers began conducting arrests of the crowd. During this, an officer grabbed § 87(2)(b)'s arm, threw her to the ground on top of two women, and placed his knee on her back (**Allegations A and B: Force;** § 87(2)(g)). This officer called § 87(2)(b) a “fucking bitch” and told her and the two other women to “shut the fuck up” (**Allegations C and D: Discourtesy;** § 87(2)(g)). At one point, the officer also pulled back § 87(2)(b)'s head by pulling her hair (**Allegation E: Force;** § 87(2)(g)). § 87(2)(b) was handcuffed and passed to PO Roberto Gonzalez from the 46th Precinct, who became her arresting officer.

§ 87(2)(b) was also taken to the ground by an officer, where she was handcuffed and passed to PO John O’Neill of Strategic Response Unit (SRG), who became her arresting officer (**Allegation F: Force;** § 87(2)(g)). Both § 87(2)(b) and § 87(2)(b) were issued a summons for violating the city-imposed curfew [BR01 and BR02, respectively]. § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

This case involves allegations of kettling and other concerted enforcement actions performed under the command and supervision of the then Chief of Department Terrance Monahan and Assistant Chief Kenneth Lehr. These allegations are being addressed in Case #202006855.

The investigation received body-worn camera (BWC) footage from PO O’Neill, Lt. Andrew Johnson, PO Adora Mojicabarry, PO Ray Silva, PO Shawn Liriano, PO Michel Sheehan, PO Crystal Washington, PO Jordan Abidin, PO Manuel Gutierrez, PO Christopher Zappoli, PO Jacklyn Castillo, PO Sindy Sanchez, PO Paul Rau, and PO Joel Martinez [BR03 through BR17, respectively]. The investigation is not in possession of any additional video footage.

Findings and Recommendations

Allegation (A) Force: Officers used physical force against § 87(2)(b).

Allegation (B) Force: An officer used physical force against § 87(2)(b).

Allegation (C) Discourtesy: Officers spoke discourteously to § 87(2)(b).

Allegation (D) Discourtesy: An officer spoke discourteously to individuals.

Allegation (E) Force: An officer used physical force against § 87(2)(b).

Known facts and general descriptions

On June 3, 2020, a city-wide curfew was implemented, per a mayoral executive order, lasting from 8:00 p.m. to 5:00 a.m. [BR18]. § 87(2)(b) testified that she and § 87(2)(b) marched with the protest until they reached a standstill at Brook Avenue. She moved towards the sides of the of the crowd, towards the sidewalk, when she felt a push from the front and the officers began pushing the crowd from behind. The officers then began shoving protesters and arresting members of the crowd. § 87(2)(b) did not hear any commands issued prior to this. She stated she was aware of the 8:00 p.m. curfew, but expected to receive a warning to disperse, of which none was issued.

During this, an officer grabbed § 87(2)(b) separating her and § 87(2)(b). During this, § 87(2)(b) stated that she felt like she was being crushed from being continually pushed from the back by the protesters in front of her. After three to four minutes of this, an officer grabbed § 87(2)(b)'s left arm and threw her onto two women who were already on the ground. § 87(2)(b) did

not know these two women. The officer placed his knee on her back, pulled her hands behind her back, and handcuffed her. § 87(2)(b) attempted to shift her body weight so she did not harm the two women underneath her and asked if they were okay. The same officer then called § 87(2)(b) a “fucking bitch” and to “shut [her] fucking mouth”. As § 87(2)(b) shifted her body, the officer told § 87(2)(b) to stop resisting, to which the women under her told the officer that she was not. The officer told the two women on the ground to “shut [their] fucking mouths”. At one point, the officer pulled § 87(2)(b) by her hair, which was tied in a ponytail. After a couple of minutes, § 87(2)(b) was stood up, and the officer who handcuffed her passed her to PO Gonzalez, who she stated became her arresting officer. § 87(2)(b) was eventually taken to Queens Central Booking, where she was released with a summons for violating the curfew. § 87(2)(b) did not witness any of the incident [BR34]. § 87(2)(b) described the subject officer as a white male with a round face, standing 6’1” tall, with short to no hair, in a standard blue police uniform, between 30 to 35 years old [BR19].

§ 87(2)(b)
§ 87(2)(g)
[BR20]. § 87(2)(b) also filed a separate a Notice of Claim for this incident, in which it is additionally alleged that officers hit her with their batons and pepper sprayed her [BR21]. However, § 87(2)(b) never mentioned this in her CCRB testimony. Neither of the two claims identified the subject officers.

BWC:

Two BWC requests were submitted for this incident. The first BWC request search yielded eight videos, for Lt. Andrew Johnson, PO Adora Mojicabarry, PO Ray Silva, PO Shawn Liriano, PO Michel Sheehan, PO Crystal Washington, PO Jordan Abidin, and PO Manuel Gutierrez, querying by the incident date, time, and location. [BR22]. None of the BWC footage received captured the incident.

A second request was submitted with the incident date, time, and location, along with § 87(2)(b) and § 87(2)(b)'s arresting officers, PO Gonzalez and PO O’Neill. This search yielded seven videos for PO O’Neill, PO Christopher Zappoli, PO Jacklyn Castillo, PO Sindy Sanchez, PO Paul Rau, and PO Joel Martinez (along with a duplicate BWC video from PO Johnson) [BR23]. None of the BWC footage received captured the incident.

NYPD Documents Reviewed

The investigation received the 40th Precinct and 41st Precinct Roll Call, Daily Vehicle Assignment Sheet, Command Log, Resource Recap Log, and ARCS [BR24 through BR31, respectively]. Documents were requested from these precincts because the 40th Precinct was where the incident occurred and the 41st Precinct is its neighboring precinct. The investigation is also in possession of the 46th Precinct ARCS and Resource Recap Log. There was no identifying information for the subject officers from these documents. § 87(2)(b)'s arrest was not documented anywhere else, aside from the summons issued to her [BR01]. § 87(2)(b)'s summons also did not reveal the subject officer's identity. Requests for any Threat Resistance Injury reports or property vouchers prepared for § 87(2)(b) yielded negative results [BR32].

Concurrent Investigations

The investigation is not aware of any concurrent investigation into the incident between § 87(2)(b) and the officer.

Ranking Officer

It was determined that the highest-ranking officer on scene was then Chief of Department Terence Monahan; he is no longer a member of the NYPD. Chief Monahan was interviewed regarding the protest in general, but was not interviewed specifically for this case.

Officers Interviewed

PO Gonzalez was interviewed, as he was § 87(2)(b)'s arresting officer while on scene and the officer who issued § 87(2)(b) the summons. PO Gonzalez testified that, upon arriving at the protest, protesters were already being arrested. He was directed by Captain Carlos Peralta, the commanding officer of the 46th Precinct, to move to the front of the crowd. At the front, unidentified officers from SRG directed him and other officers from the 46th Precinct to start "grabbing" protesters who were already flexi-cuffed and under arrest. PO Gonzalez then re-entered the crowd and encountered another officer, whom he did not know, holding two handcuffed protesters, one of whom was § 87(2)(b). PO Gonzalez did not observe § 87(2)(b)'s arrest. He did not see an officer push § 87(2)(b) to the ground. He did not see an officer place a knee on § 87(2)(b)'s back. He did not hear an officer call § 87(2)(b) a "fucking bitch" and to "shut her fucking mouth". He did not see an officer pull § 87(2)(b)'s hair. PO Gonzalez then walked § 87(2)(b) to the transport van. Neither § 87(2)(b) nor the officer who gave her to PO Gonzalez informed him of how she was arrested. PO Gonzalez was not specifically told why § 87(2)(b) was arrested, although he believed it was because she was in violation of the curfew. PO Gonzalez accompanied § 87(2)(b) and other protesters to Queens Central Booking, where he was directed by NYPD Legal to issue § 87(2)(b) a C-summons for violating the curfew [BR01]. The protesters were released from Central Booking at approximately 3:30 a.m. [BR33].

Allegation Recitation and Disposition

As there are no additional police documentation, aside from the summons, that exists for § 87(2)(b)'s arrest and BWC footage did not capture the incident, the investigation was unable to identify any additional officers in connection with § 87(2)(b)'s arrest aside from PO Rodriguez. Moreover, because PO Rodriguez did not recognize the officer who was with § 87(2)(b) and did not obtain any information about her arrest., § 87(2)(g)

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Allegation (F) Force: An officer used physical force against § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) testified that after marching with the protest for 15 to 20 minutes, the crowd suddenly stopped at the intersection of East 136th Street and Brown Place, just before 8:00 p.m. She was positioned at the rear of the crowd but was able to see that the officers stationed in front of the protest were not allowing people to leave. A few protesters at the rear of the crowd attempted to leave but were stopped by officers. A warning was then issued, either from a recording or someone over the microphone, that the curfew went into effect in five minutes. § 87(2)(b) attempted to move back and towards the side of the crowd. A minute after the warning was issued, officers entered the crowd and began conducting arrests. § 87(2)(b) who was holding onto her bike, felt two hands grab her upper arms from behind; she stated that, at the time, it felt as if she was being picked up, but later realized that she had been shoved in a way that forced her to turn around, as she was facing an officer. An officer then pulled her bike away and the officer took her to the ground. She was then handcuffed with zipties and stood up. The officer then passed § 87(2)(b) to PO O'Neill who became her arresting officer. She informed PO O'Neill that the zipties were causing her to lose feeling in her

hand. PO O'Neill eventually procured cutters, cut her zipties, and re-handcuffed her with zipties. § 87(2)(b) was eventually transported to Queens Central Booking, where she was released with a summons for violating the curfew. § 87(2)(b) described the subject officer as a white male, six feet tall, heavy-set, and in a white-shirt police uniform. § 87(2)(b) did not witness this incident [BR34]. § 87(2)(b) represented by the § 87(2)(b) filed a Notice of Claim for this incident; the injuries/damages claimed were largely consistent with those alleged in § 87(2)(b)'s testimony. However, § 87(2)(b) additionally alleged that she was hit with batons and pepper sprayed by officers [BR35]. The subject officers were not identified in § 87(2)(b)'s Notice of Claim.

BWC

Two BWC requests were submitted for this incident. The first BWC request search yielded eight videos, for Lt. Andrew Johnson, PO Adora Mojicabarry, PO Ray Silva, PO Shawn Liriano, PO Michel Sheehan, PO Crystal Washington, PO Jordan Abidin, and PO Manuel Gutierrez, using the incident date, time, and location. [BR22]. None of the BWC from this first request captured the incident.

A second request was also submitted, also with the incident date, time, and location, and also using and § 87(2)(b) and § 87(2)(b)'s arresting officers, PO Gonzalez and PO O'Neill. This search yielded seven videos for PO O'Neill, PO Christopher Zappoli, PO Jacklyn Castillo, PO Sindy Sanchez, PO Paul Rau, and PO Joel Martinez (along with a duplicate BWC video from PO Johnson) [BR23]. PO O'Neill's BWC captures § 87(2)(b) on camera at 4:00 minutes with two officers, Sgt. Kenneth Rice and Det. Enrique Corniel, who give her to PO O'Neill [BR03]. § 87(2)(b)'s arrest is not captured on any of the BWC footage [BR03 through BR17].

NYPD Documents Reviewed

The investigation received the 40th Precinct and 41st Precinct Roll Call, Daily Vehicle Assignment Sheet, Command Log, Resource Recap Log, and ARCS [BR24 through BR31, respectively]. Documents were requested from these precincts because the 40th Precinct was where the incident occurred and the 41st Precinct is its neighboring precinct. The investigation is also in possession of the 46th Precinct ARCS and Resource Recap Log. There was no identifying information for the subject officers from these documents. § 87(2)(b)'s arrest was not documented anywhere else, aside from the summons issued to her by PO O'Neill [BR02]. § 87(2)(b)'s summons also did not reveal the subject officer's identity. Requests for any TRI's or property vouchers prepared for § 87(2)(b) yielded negative results [BR32].

Concurrent Investigation

The investigation is not aware of any concurrent investigation into the incident between § 87(2)(b) and the officer.

Ranking Officer

It was determined that the highest-ranking officer on scene was then Chief of Department Terence Monahan. Chief Monahan was interviewed regarding the protest in general, but was not interviewed specifically for this case.

Officers Interviewed

§ 87(2)(b)'s arresting officer and the officer who issued her the summons, PO O'Neil, is no longer a member of service. The summons PO O'Neil issued to § 87(2)(b) listed Sgt. Kenneth Rice from NYPD Legal as the officer who transferred § 87(2)(b) to him [BR02].

In his CCRB interview, Sgt. Rice testified that he was assigned as a legal advisor for the NYPD during the protest, stating that he was responsible for providing legal advice regarding arrests and advising on strategy. At either 8:00 p.m. or 8:01 p.m., a warning was issued over the LRAD loudspeaker that the 8:00 p.m. curfew had gone into effect. After a minute or two of the warning, the front line of officers entered the crowd, grabbed protesters, and passed them back to a second line of officers, who then handcuffed them. Sgt. Rice assisted in one or two arrests, although he did not recall if they were males or females; he primarily moved through East 136th Street, observing arrests and providing legal advice in regards. He testified that these conversations were privileged under attorney-client privilege and that he could not disclose them to the investigation. He did not have an independent recollection of assisting in § 87(2)(b)'s arrest [BR37].

Sgt. Rice was shown PO O'Neill's BWC footage from the incident during his interview [BR03]. Upon reviewing the footage, Sgt. Rice confirmed that he was captured in the video. He stated that Det. Enrique Corneil, his driver that day, had arrested § 87(2)(b) which he informed Sgt. Rice of. As Det. Corneil was his driver, Sgt. Rice gave the arrest of PO O'Neill to process. He did not observe § 87(2)(b) be arrested [BR37].

In his CCRB interview, Det. Corneil testified that, at approximately 8:00 p.m., the protesters reached the intersection of East 139th Street and Brook Avenue, where a line of officers formed to face the crowd. Sometime after 8:00 p.m., multiple officers entered the protest crowd to affect the curfew and began arresting protesters. Det. Corneil assisted in one arrest during the protest, which he described as a white female standing 5'4" tall. He first observed a police officer, whom he did not know, struggling to arrest this protester, who was pulling her arms away from the officer as he tried to handcuff her.

Det. Corneil was about five to seven feet from them; while attempting to reach them, the female and the officer went to the ground, although he did not know how this happened or if the officer conducted a forcible takedown. Upon reaching the two, Det. Corneil assisted the officer in handcuffing the female, who attempted to pull her arms away from him. It took Det. Corneil and this officer about 30 seconds to handcuff the protester, who was handcuffed in standard metal handcuffs. The female was then stood up and the unidentified officer walked away. Det. Corneil was unable to describe this officer. Det. Corneil went to find Sgt. Rice, as he was not supposed to take any enforcement action that day. Upon locating Sgt. Rice, he told Det. Corneil that he would find another officer to take the arrest. He found two Strategic Response Unit officers, who re-cuffed the female in zip ties and returned Det. Corneil's metal handcuffs to him. The two officers then walked away with her [BR38].

Det. Corneil was shown PO O'Neill's BWC footage during his interview [BR03]. He identified himself in the footage with Sgt. Rice, however stated that he did not recognize § 87(2)(b) and that she was not the individual he assisted in arresting [BR38].

Although Sgt. Rice and Det. Corneil acknowledged assisting with arrests, they did not recognize § 87(2)(b) and did not know which officer they assisted with the arrests. As there were no additional NYPD documentation, aside from the summons, absent video evidence, and none of the officers interviewed identified the subject officer, § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Country	Share of GDP
United States	1.2%
Germany	1.1%
France	1.0%
Italy	0.9%
Spain	0.8%
Japan	0.7%
China	0.6%
India	0.5%
South Korea	0.4%
United Kingdom	0.3%
Canada	0.2%
Sweden	0.1%
Switzerland	0.1%
Australia	0.1%
South Africa	0.1%
Brazil	0.1%
Argentina	0.1%
Chile	0.1%
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Finland	0.1%
Denmark	

• § 87(2)(b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- This complaint was unsuitable for mediation.
- According to the New York City Office of the Comptroller, § 87(2)(b) submitted a Notice of Claim, filed on her behalf by the § 87(2)(b), seeking compensatory damages for past and/or future emotional and/or physical pain, unlawful physical restraint and imprisonment, violation(s) of her constitutional rights, loss of past and/or future incomes, medical expenses, and other economic damages, which are to be determined by a jury [BR21].
- According to the New York City Office of the Comptroller, § 87(2)(b) submitted a Notice of Claim, filed on her behalf by the § 87(2)(b), seeking

compensatory damages for past and/or future emotional and/or physical pain, unlawful physical restraint and imprisonment, violation(s) of her constitutional rights, loss of past and/or future incomes, medical expenses, and other economic damages, which are to be determined by a jury [BR35].

- According to the Office of Court Administration (OCA), neither § 87(2)(b) nor § 87(2)(b) have a criminal conviction history in New York City [BR42 and BR43, respectively].

Squad No.: 8

Investigator: Genevieve Lamont Inv. Genevieve Lamont 06/17/2021
Signature Print Title & Name Date

Squad Leader: Patrick Yu SI Patrick Yu 06/17/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date